UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:
MILLSTON FOOD MART, INC.
Debtor

CASE NO.: 16-02764-5-JNC

CHAPTER 7

STEPHEN L. BEAMAN, TRUSTEE,
Plaintiff,

vs.

MAGED EL SHAIKH A/K/A MAGED FUAD ELSHAIKH, MONERA MATAR, KHALID FUAD SHAIKH, SUHAD SALEEM
Defendants

Adversary Proceeding No.

COMPLAINT TO SELL REAL ESTATE FREE OF CO-OWNER'S INTEREST

NOW COMES Stephen L. Beaman, Trustee, Plaintiff herein, through undersigned counsel, complaining of the Defendants and alleges as follows:

FACTUAL ALLEGATIONS

1. This adversary proceeding is brought pursuant to 11 U.S.C. §§522 and 363(h), and is a core proceeding pursuant to 28 U.S.C. §157. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§151, 157, and 1334. The Court has the authority to hear this matter pursuant to the general order of reference entered by the United States District Court for the Eastern District of North Carolina.

2. Stephen L. Beaman ("Plaintiff") is the duly appointed, qualified, and acting Chapter 7 Trustee in the Debtor's bankruptcy case.

3. Upon information and belief, Defendant, Maged El Shaikh a/k/a Maged Fuad Elshaikh, is a resident of Wake County, North Carolina and is subject to the jurisdiction of this Court.

4 Upon information and belief, Defendant, Monera Matar, is a resident of Wake County, North Carolina, and is subject to the jurisdiction of this Court.

5. Upon information and belief, Defendant, Khalid Fuad Shaikh, is a resident of Wake County, North Carolina and is subject to the jurisdiction of this Court.

6. Upon information and belief, Defendant, Suhad Saleem, is a resident of Wake County, North Carolina and is subject to the jurisdiction of this Court.

7. The Debtor filed for voluntary relief under Chapter 11 on May 25, 2016. The case was converted on August 8, 2016 to a case under Chapter 7. Stephen L. Beaman was duly appointed as Chapter 7 Trustee of the bankruptcy estate.

8. On or about June 28, 2011, Overseas Enterprises, Inc. transferred property known as 2401 E. Millbrook Road, Raleigh, NC 27604 (the "Property") to Maged Fuad Elshaikh, Fuad Issa Shaikh, and Khalid Fuad Shaikh. A copy of the deed, with the specific property description is attached hereto as Exhibit A and incorporated in its entirety.

9. The Deed purported to give Maged Fuad Elshaikh, Fuad Issa Shaikh, and Khalid Fuad Shaikh each a 1/3 undivided interest in the Property.

10. Upon information and belief, Monera Matar is the wife of Mage Fuad El Shaikh, Suhad Saleem is the wife of Khalid Fuad Shaikh, and Aicha Lahfid is the wife of Fuad Issa Shaikh.

11. On or about December 2, 2013, Fuad Issa Shaikh, along with his wife, Aicha Lahfid, transferred his 1/3 undivided interest in the Property to Ahmad F. Shaikh. A copy of the deed is attached hereto as Exhibit B and incorporated in its entirety.

12. On or about January 12, 2015, Ahmad F. Shaikh, along with his wife, Ahlam Shahin, transferred his interest in the Property to Millston Food Mart, Inc., the Debtor in this Chapter 7 case.

13. The Property consists of approximately .68 acres and contains a commercial building, which upon information and belief, is utilized as a convenience store. The total tax value of the Property, which includes the real estate and building, is listed as $799,000.00.

14. Upon information and belief, there may be a lien against the Property in favor Branch Banking & Trust, however the balance owed is reportedly less than $55,000.00.

15. The Trustee has offered to sell the Debtor's interest in the Property to the co-owners, but the Trustee has not received a reasonable offer for the purchase of the Debtor's interest.

CLAIM FOR RELIEF

16. The allegations of paragraphs 1 through 15 are repeated herein by reference.

17. Partition in kind of the Property is impracticable as the Property consists of less than an acre of real estate with a commercial building.

18. Sale of the estate's undivided interest in the Property will realize significantly less for the estate than sale of the Property free of the interest of the co-owners, as the interest in the estate's 1/3 undivided interest in the Property has been considerably less proportionally than the listed tax value of the Property as well as comparable sales of properties in the surrounding areas.

19. The benefit to the estate of a sale of the Property free of the interests of co-owners outweighs the detriment, if any, to the co-owners, as it is anticipated that a sale of the Property as a whole will result in the greatest return for all owners.

20. Upon information and belief the Property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power, but instead is used as a convenience store.

21. The Trustee should be permitted to sell both the estate's interest and the co-owners' interest in the Property pursuant to 11 U.S.C. §363.

WHEREFORE, Plaintiff respectfully prays the Court as follows:

1. That the Plaintiff be allowed to sell all of the Property free of the interests of the Defendants;

2. That the costs of this action be taxed against the Defendants; and

3. For such other and further relief as the Court deems just and proper.

This the 31st day of January, 2017.

Beaman & Bennington, PLLC

By: /s/Jennifer K. Bennington

Jennifer K. Bennington, N.C. State Bar No. 37180
Attorney for Trustee
PO Box 1907, Wilson, NC 27894-1907
Phone (252) 237-9020 Fax (252) 243-5174
Email: jbennington@beamanlaw

Exhibit A

BK014386PG01852

WAKE COUNTY, NC 230
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
06/28/2011 AT 14:23:58

BOOK:014386 PAGE:01852 - 01855

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: $ NONE

Parcel Identifier No. 0109752

Mail/Box to: Grantee

This instrument was prepared by: *Cumalander, Adcock & McCraw, LLP by John B. Adcock, P.A., a licensed North Carolina attorney without title exam, closing or tax advice*

Brief description for the Index: 2104 E. Millbrook Road

THIS DEED made this 17th day of June, 2011, by and between

GRANTOR	GRANTEE
OVERSEAS ENTERPRISES, INC. **(a North Carolina corporation)** **1417 Millstone Landing Dr.** **Raleigh, NC 27603**	**FUAD ISSA SHAIKH, a 1/3 undivided interest** **and** **MAGED FUAD ELSHAIKH, a 1/3 undivided interest** **and** **KHALID FUAD SHAIKH, a 1/3 undivided interest** **2505 Simpkins Road** **Raleigh, NC 27603**

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Raleigh, Neuse Township, Wake County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

All or a portion of the property herein conveyed _ includes or X does not include the primary residence of a Grantor.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 5638, page 215.
A map showing the above described property is recorded in Plat Book 1979, page 597 (Lot 2).

BK014386PG01853

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. All easements, covenants, restrictions and right of ways of record;
2. 2011 ad valorem taxes;
3. Subject to that Deed of Trust dated August 19, 2004, recorded August 23, 2004 in Book 10981, page 2780 along with that Assignment of Leases and Rents in Book 10981, page 2787, Wake County Registry;
4. Right of way of Millbrook Road and Departure Drive;

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

OVERSEAS ENTERPRISES, INC.

By: [signature]

Print/Type Name & Title: FUAD ISSA SHAIKH, PRESIDENT

By: ____________________

Print/Type Name & Title: ____________________

By: ____________________

Print/Type Name & Title: ____________________

____________________ (SEAL)

Print/Type Name: ____________________

____________________ (SEAL)

Print/Type Name: ____________________

____________________ (SEAL)

Print/Type Name: ____________________

____________________ (SEAL)

Print/Type Name: ____________________

State of North Carolina - County of Wake

I, the undersigned Notary Public, of the County of Harnett and State aforesaid, certify that Fuad Issa Shaikh, personally came before me this day and acknowledged that he (or she) is President of Overseas Enterprises, Inc., a North Carolina corporation, and that he/she as President, being authorized to do so, executed the foregoing on behalf of the corporation. Witness my hand and official seal this 17 day of June, 2011.

[signature]

Paula M. Whitsell, Notary Public

My Commission Expires: 13 August 2013

(Affix Seal)

PAULA M. WHITSELL NOTARY *** PUBLIC HARNETT COUNTY, N.C.

EXHIBIT "A"

BEGINNING on an iron located at the intersection of the northern right of way of Millbrook Road (90 ft. right of way) and the eastern right of way of Departure Drive (60 ft. right of way):

Proceed from said BEGINNING point with the northern right of way of Millbrook Road S 37-52-00 E 28.28 feet to a point on said right of way, thence continuing with said right of way S 82-52-00 E 130.00 feet to a point on said right of way, thence leaving said right of way N 07-08-04 E 199.99 feet to a point, thence N 82-52-00 W 150.00 feet to a point on the eastern right of way of Departure Drive, thence with said right of way S 07-08-01 W 180.00 feet to the point of BEGINNING, and containing 0.684± acre, according to a survey by Hanover Design Services, P.A. in November of 1990. (All bearings are magnetic relative to Map Book 1979, page 597.)

Being the same property described in that deed recorded at Book 5638, Page 215, Wake County Registry.

Property Address: *2401 E. Millbrook Road, Raleigh, NC 27604*
Wake Co. REID#: *0109752*

BK014386PG01855

BOOK:014386 PAGE:01852 - 01855

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.

WAKE COUNTY NORTH CAROLINA

Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

This Customer Group
______ # of Time Stamps Needed

This Document
______ New Time Stamp
4 # of Pages

22.004-1/20/06

Exhibit B

WAKE COUNTY, NC 211
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
12/02/2013 AT 13:56:11

BOOK:015519 PAGE:01074 - 01077

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: $ NONE

Parcel Identifier No. 0109752

Mail/Box to: Grantee

This instrument was prepared by: *Cumalander, Adcock & McCraw, LLP by John B. Adcock, P.A., a licensed North Carolina attorney without title exam, closing or tax advice*

Brief description for the Index: 2401 E. Millbrook Road

THIS DEED made this 18th day of November, 2013, by and between

GRANTOR	GRANTEE
FUAD ISSA SHAIKH, a 1/3 undivided interest **And wife, AICHA LAHFID** **2401 E. Millbrook Road** **Raleigh, NC 27604**	**AHMAD F. SHAIKH, a 1/3 undivided interest** **2401 E. Millbrook Road** **Raleigh, NC 27604**

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all of their one-third (1/3) undivided interest in that certain lot or parcel of land situated in the City of Raleigh, Neuse Township, Wake County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

All or a portion of the property herein conveyed _ includes or X does not include the primary residence of a Grantor.

All or a portion of the property herein conveyed DOES NOT include the primary residence of a Grantor.
The property hereinabove described was acquired by Grantor by instrument recorded in Book 14386, page 1852.
A map showing the above described property is recorded in Plat Book 1979, page 597 (Lot 2).

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. All easements, covenants, restrictions and right of ways of record;
2. 2013 ad valorem taxes;
3. Subject to that Deed of Trust dated August 19, 2004, recorded August 23, 2004 in Book 10981, page 2780 along with that Assignment of Leases and Rents in Book 10981, page 2787, Wake County Registry;
4. Right of way of Millbrook Road and Departure Drive;

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

By:______________________________ Print/Type Name & Title:

By:______________________________ Print/Type Name & Title:______________________________

By:______________________________ Print/Type Name & Title:______________________________

[signature] (SEAL)
Print/Type Name: Fuad Issa Shaikh

[signature] (SEAL)
Print/Type Name: Aicha Lahfid

______________________________ (SEAL)
Print/Type Name:______________________________

______________________________ (SEAL)
Print/Type Name:______________________________

State of North Carolina - County of Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Fuad Issa Shaikh, Grantor(s). Witness my hand and official stamp or seal this 30 day of November, 2013.

[signature] Notary Public
Nicollette Cheng (printed name)
My Commission Expires: 2-26-17

NICOLLETTE CHENG NOTARY PUBLIC WAKE COUNTY, NC

State of North Carolina - County of Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Aicha Lahfid, Grantor(s). Witness my hand and official stamp or seal this 30 day of November, 2013.

[signature] Notary Public
Nicollette Cheng (printed name)
My Commission Expires: 2-26-17

NICOLLETTE CHENG NOTARY PUBLIC WAKE COUNTY, NC

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Being the same property described in that deed recorded at Book 5638, Page 215, Wake County Registry.

Property Address: *2401 E. Millbrook Road, Raleigh, NC 27604*
Wake Co. REID#: *0109752*

BOOK:015519 PAGE:01074 - 01077

WAKE COUNTY
NORTH CAROLINA

Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Laura M. Riddick
Register of Deeds

Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

☐ New Time Stamp ☐ $25 Non-Standard Fee

☐ Additional Document Fee ☐ Additional Reference Fee

This Customer Group

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This Document

4 # of Pages I